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EXAMINER

ELLIOTT IV, BENJAMIN H

ART UNIT	PAPER NUMBER
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2416

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09/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,578	Applicant(s) PANJE, KRISHNA PRASAD	
	Examiner BENJAMIN ELLIOTT	Art Unit 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 1-16 have been examined and are pending. Claims 1-16 stand rejected.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

Claim Objections

3. Claim 1 and 11 are objected to because of the following informalities: the word "analysing" is misspelled. Examiner suggests "analyzing". Appropriate correction is required.
4. Claims 3 and 4 are objected to because of the following informalities: the word "colour" is misspelled. Examiner suggests "color". Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 10 and 16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 10 and 16 are rejected under 35 U.S.C. 101 because a "software executable..." is interpreted

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as a software program and does not include any functional structure of an apparatus (i.e. hardware structures) to perform the functions. In order for the claimed invention to qualify as a patent eligible process, it must be tied to another statutory class or transform underlying subject matter to a different state or thing. The “software” disclosed in the claims does not qualify as a patent eligible process. See *In re Bilski*, USCAFC Appeal No. 2007-1130. As such, the claims are not limited to statutory subject matter and are therefore non-statutory.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent Application Publication 2002/0055372 A1 to Motohashi (hereinafter “Motohashi”).

Regarding Claim 1, Motohashi discloses **a method of indicating a signal characteristic in a communication system comprising a first communication apparatus (10) coupled in wireless communication with a second communication apparatus (80)** (Motohashi: Figure 4), **characterized in that the method includes the steps of:**

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- (a) receiving one or more wireless transmissions (60) at the second apparatus (80)** (Motohashi: [0036]. Opposite party terminal receives an image that has been transmitted.);
- (b) analysing the one or more wireless transmissions (60) as received at the second apparatus (80) to determine at least one characteristic of the one or more wireless transmissions** (Motohashi: [0036]. Reception level display is displayed.);
- (c) generating at least one return signal including information describing the at least one characteristic and communicating said at least one return signal from the second apparatus (80) to the first apparatus (10)** (Motohashi: [0036]. Transmission image example is received and displayed on opposite party terminal.), **and**
- (d) receiving the at least one return signal at the first apparatus (10) and presenting said at least one characteristic to at least one user (90) of the first apparatus (10)** (Motohashi: [0036]. Quality alarm is generated and displayed.).

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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9. Claims 2-16 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent Application Publication 2002/0081977 A1 to McCune, Jr. (hereinafter "McCune").

Regarding Claim 2, McCune discloses a method of indicating a signal characteristic on a first communication apparatus (McCune: [0011]), characterized in that the method includes the steps of:

(a) receiving a signal including information describing at least one characteristic of one or more wireless transmissions between a second communication apparatus (80) and a base station of a wireless communication system (McCune: Figure 2 and [0031]. A handset receives signal quality indicators from base stations.); and

(b) presenting said at least one characteristic to at least one user (90) of the first apparatus (10) (McCune: [0032]. Indicator may be audible or visible to user.).

Regarding Claim 3, McCune discloses a method according to Claim 2 wherein presentation of said at least one characteristic conveyed in the at least one return signal is implemented by modifying a background colour and/or light emission flux of displaying means (20) included in the first apparatus (20) (McCune: [0032]. Light-emitting diode).

Regarding Claim 4, McCune discloses a method according to Claim 3, wherein the background colour is represented in a majority of pixels included in the displaying means (20) (McCune: [0032]. Liquid crystal display method).

Regarding Claim 5, McCune discloses a method according to Claim 2 wherein, in step (b), presentation of the at least one characteristic is supplemented by a corresponding audio indication (McCune: [0032]. Indicator may be audible or visible to user.).

Regarding Claim 6, McCune discloses a method according to Claim 2, wherein the information received in the signal is indicative of strength of magnetic radiation received at the second apparatus (McCune: [0032]. Signal quality).

Regarding Claim 7, McCune discloses a method according to Claim 2, wherein the signal is received in a repetitive or substantially continuous manner (McCune: [0031]. Received Signal Quality Indicator is continuously monitoring, measuring, and displaying.).

**Regarding Claim 8, McCune discloses a method according to Claim 2, wherein the signal conveys the at least one characteristic by way of at least one of:
one or more pulses, one or more tone bursts, phase modulation, digital data streams (McCune: [0033]. The signal can be in the form of a digital signal having a number of bytes.).**

Regarding Claim 9, McCune discloses apparatus (10) operable according to a method of Claim 2 (McCune: Figure 3).

Regarding Claim 10, McCune discloses software executable on one or more computing devices for implementing the method of Claim 2 (McCune: [0031]. Computer program or program embedded in memory.).

Regarding Claim 11, McCune discloses **a method of enabling indication of a signal characteristic on a first communication apparatus** (McCune: [0032]. Displays signal quality in form of bars. [0030]; first and second wireless devices in communication with one another.), **characterized in that the method includes the steps of:**

(a) analysing one or more wireless transmissions (60) between a second communication apparatus (80) and a base station of a wireless communication system to determine at least one characteristic of the one or more wireless transmissions (McCune: [0030]. First wireless station (handset) send a registration number (transmission) to second wireless station (base station). [0031]. Also, base station continuously monitors signal strength of handset.); **and**

(b) generating at least one signal including information describing the at least one characteristic and communicating said at least signal to the first apparatus (10) (McCune: An indicator of the characteristic is either displayed on the handset of the user or heard (audible signal) by the user of the handset.).

Regarding Claim 12, McCune discloses **a method according to Claim 11, wherein the information conveyed in the at least one signal is indicative of strength of magnetic radiation received at the second apparatus** (McCune: [0032]. Signal quality is displayed on the handset.).

Regarding Claim 13, McCune discloses **a method according to Claim 11, wherein the at least one signal is communicated to the first apparatus**

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(10) in a repetitive or substantially continuous manner (McCune: [0031].

Received Signal Quality Indicator is continuously monitoring, measuring, and displaying.).

Regarding Claim 14, McCune discloses **a method according to Claim 11, wherein the at least one signal conveys the at least one characteristic by way of at least one of: one or more pulses, one or more tone bursts, phase modulation, digital data streams** (McCune: [0033]. The signal can be in the form of a digital signal having a number of bytes.).

Regarding Claim 15, McCune discloses **apparatus (80) operable according to a method of Claim 11** (McCune: Figure 3).

Regarding Claim 16, McCune discloses **software executable on one or more computing devices for implementing the method of Claim 11** (McCune: [0031]. Computer program or program embedded in memory.).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN ELLIOTT whose telephone number is (571)270-7163. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Aung Moe can be reached on (571)272-7314. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aung S. Moe/
Supervisory Patent Examiner, Art Unit 2416

BENJAMIN ELLIOTT
Examiner
Art Unit 2416